

**THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Kenneth Moore,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 1:08-CV-02862
	)	Honorable James B. Zagel
Peerless Group, Inc., The Peerless Group,	)	
Peerless Machinery Corp., Peerless	)	
Confection Company,	)	
	)	
and, in the alternative,	)	
	)	
Shaffer Manufacturing Corp,	)	
	)	
Defendants.	)	

**PLAINTIFF'S ANSWERS TO DEFENDANT, PEERLESS MACHINERY CORP.,  
dba THE PEERLESS GROUP, AFFIRMATIVE DEFENSES**

NOW COMES Plaintiff, KENNETH MOORE, by and through his attorneys Cochran, Cherry, Givens, Smith & Montgomery, LLC, and for his Answer to Defendant, PEERLESS MACHINERY CORP., dba THE PEERLESS GROUP, (hereinafter, PEERLESS), Affirmative Defenses to Plaintiff's Complaint at Law, states as follows:

FIRST AFFIRMATIVE DEFENSE - STATUTE OF REPOSE

**ANSWER:**

Plaintiff denies each and every allegation contained in Defendant, Peerless, First Affirmative Defense. And further denies that he is barred by the Statute of Repose as set forth in 735 ILCS 5/13-213.

WHEREFORE Plaintiff, KENNETH MOORE, respectfully requests judgment by this Honorable Court against Defendant, PEERLESS, and dismissal of its First Affirmative Defense.

SECOND AFFIRMATIVE DEFENSE  
OBVIOUS AND INHERENT PRODUCT PROPENSITIES

**ANSWER:**

Plaintiff denies each and every allegation contained in Defendant, Peerless, Second Affirmative Defense. In further answering, Plaintiff, Kenneth Moore, denies that he was negligent in any fashion or that any of his conduct or actions were contributing factors, in whole or in part, to his injuries.

WHEREFORE Plaintiff, KENNETH MOORE, respectfully requests judgment by this Honorable Court against Defendant, PEERLESS, and dismissal of its Second Affirmative Defense.

THIRD AFFIRMATIVE DEFENSE  
ASSUMPTION OF RISK/CONTRIBUTORY FAULT

**ANSWER:**

Plaintiff denies each and every allegation contained in Defendant, Peerless, Third Affirmative Defense. In further answering, Plaintiff, Kenneth Moore, denies that he was negligent in any fashion or that he assumed any risk or that any of his conduct or actions were contributing factors, in whole or in part, to his injuries.

WHEREFORE Plaintiff, KENNETH MOORE, respectfully requests judgment by this Honorable Court against Defendant, PEERLESS, and dismissal of its Third Affirmative Defense.

FOURTH AFFIRMATIVE DEFENSE - 3<sup>rd</sup> PARTY MANUFACTURER

**ANSWER:**

Upon information and belief, Plaintiff denies each and every allegation contained in Defendant, Peerless, Fourth Affirmative Defense.

WHEREFORE, Plaintiff, KENNETH MOORE, respectfully requests judgment by this

Honorable Court against Defendant, PEERLESS, and the dismissal of its Fourth Affirmative Defense.

FIFTH AFFIRMATIVE DEFENSE - MISUSE OF PRODUCT

ANSWER:

Plaintiff denies each and every allegation contained in Defendant, Peerless, Fifth Affirmative Defense, including each and every paragraph and subparagraph which purports to allege an Affirmative Defense or the bases thereof. In further answering, Plaintiff, Kenneth Moore, denies that he misused the product or was negligent in any fashion or that any of his conduct or actions were contributing factors, in whole or in part, to his injuries.

WHEREFORE Plaintiff, KENNETH MOORE, respectfully requests judgment by this Honorable Court against Defendant, PEERLESS, and dismissal of its Fifth Affirmative Defense.

SIXTH AFFIRMATIVE DEFENSE - PROXIMATE CAUSE

ANSWER:

Plaintiff denies each and every allegation contained in Defendant, Peerless, Sixth Affirmative Defense. In further answering, Plaintiff, Kenneth Moore, denies that he was negligent in any fashion or that any of his conduct or actions were contributing factors, in whole or in part, to his injuries.

WHEREFORE Plaintiff, KENNETH MOORE, respectfully requests judgment by this Honorable Court against Defendant, PEERLESS, and dismissal of its Sixth Affirmative Defense.

SEVENTH AFFIRMATIVE DEFENSE - CONTRIBUTORY FAULT

ANSWER:

Plaintiff denies each and every allegation contained in Defendant, Peerless, Seventh Affirmative Defense, including each and every paragraph and subparagraph which purports to



allege an Affirmative Defense or the bases thereof. In further answering, Plaintiff, Kenneth Moore, denies that Ill. Rev. Stat., Ch. 110, § 2-1116 is applicable to him and denies that he was negligent in any fashion or that any of his conduct or actions were contributing factors, in whole or in part, to his injuries.

WHEREFORE Plaintiff, KENNETH MOORE, respectfully requests judgment by this Honorable Court against Defendant, PEERLESS, and dismissal of its Seventh Affirmative Defense.

EIGHTH AFFIRMATIVE DEFENSE - JOINT AND SEVERAL LIABILITY

ANSWER:

Plaintiff denies each and every allegation contained in Defendant, Peerless, Eighth Affirmative Defense, including each and every paragraph and subparagraph which purports to allege an Affirmative Defense or the bases thereof. In further answering, Plaintiff, Kenneth Moore, denies that Ill. Rev. Stat., Ch. 110 § 2-1117 is applicable in this case and denies that he was negligent in any fashion or that any of his conduct or actions were contributing factors, in whole or in part, to his injuries.

WHEREFORE Plaintiff, KENNETH MOORE, respectfully requests judgment by this Honorable Court against Defendant, PEERLESS, and dismissal of its Eighth Affirmative Defense.

Respectfully submitted,

By: /s/ Beverly P. Spearman  
One of Plaintiff's Attorneys

James D. Montgomery  
Beverly P. Spearman  
Cochran, Cherry, Givens, Smith & Montgomery, LLC

One North LaSalle Street, Suite 2450  
Chicago, Illinois 60602  
(312) 977-0200  
(312) 977-0209 fax  
Firm ID No. 37432